REMARKS

Claims 1-31 are pending in the application before entry of this amendment. By way of this amendment, Claim 1 has been amended per the Office's objection to formatting and to better reflect Applicant's invention and Claims 5-6 have been canceled.

Section 103(a) Rejections Overcome

Claims 1-33 have been rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lim (USP 6,510,962).
Additional references cited by examiner US6,021,918, US5,915,589, US20030127463.

Applicant respectfully traverses each and every aspect of this rejection.

In regard to the Examiner's rejections to Claims 1-4 and 7-9, Applicant's claimed invention relates to a hand-held dispenser for dispensing a multiplicity of unit products having a storage area for storing the unit products, an outlet opening through which the unit products are dispensable from the dispenser, a dispensing mechanism actuable to dispense the unit products through the outlet opening, and a timing mechanism adapted in use to time the period since last dispensing of a unit product. Claim 1 has been amended to reflect the relationship between the storage unit and the dispenser and is fully supported in the specification. In contrast to Lim, which has the limitations of requiring manual loading and inspecting to ensure "… all of the compartments are loaded with the proper pills" and "the bulk supply containers of pills are stored in the compartment so that they will be readily available for the next reloading of pills" (see column 8, lines 47-48 and 51-52), Applicants dispenser employs a dispenser for dispensing a multiplicity of unit products releasably mountable on the storage area. There is no suggestion, motivation or teaching in Lim to place

Lim's device releasably mountable on the storage container and would serve to make Lim inoperable if indeed placed on the storage container. Lim's use of a bulk pill container storage is merely a secondary container for the primary bulk storage container while Applicant's device is mountable on a storage area for storing the unit products ready for dispensing.

Applicant's invention is further differentiated from Lim in other ways not fully appreciated by the Office. Applicant's dispenser incorporates a timing mechanism adapted to indicate the time since last dispensing while Lim discloses a readout display (42). (see column 5, line 40) Applicant's assert that a readout display does nothing to teach, suggested, motivated a timing mechanism adapted to indicate the time since last dispensing. Applicant further assert that Lim's use of a "Timer is a real clock that is able to display the time of day, and has one or more alarm time registers which may be programmed for issuing an electrical signal" (see column 5, lines 47-49) does not teach, suggest or motivate a display forming part of the timing mechanism on which, in use, the time since last dispensing is graphically indicated thereon. Lim's device is a fixed time interval (i.e., daily), repeating device while Applicant's device is dependent on the actual time of dispensing. The fixed timing of Lim's device performs the repetitive, static task at " … *preset times* … activates a pill-storage wheel actuation circuit" and "also turns on a blinking LED and a buzzer." (see column 6, lines 49-50 and 56-57, emphasis added) while Applicant's clearly claim the timing mechanism provides an alert when dispensing the unit products in accordance with the dispensing regime which relies on an dynamic time since last dose. Hence, the actual time to the next patient dose is calculated from when the present dose was dispensed and is not fixed in time.

In regard to the Examiner's rejections to Claims 9-31, the dispenser claimed by Applicants has a dispenser indicator for indicating the number of unit products left in, or dispensed from, the dispenser. Lim's use of an LED indicator for refilling the pill wheel does nothing to teach, suggest of motivate as dispenser

indicator for indicating the number of unit products left in, or dispensed from, the dispenser. Lim's device is merely a yes or no flag, displayed as either the LED off or on, as to whether the pill wheel needed filling and thus can not differentiate or indicate the number of unit products left in, or dispensed from, the dispenser. Further, given the limited functionality of Lim's device, merely an empty wheel indicator, it is not capable of either automatically updating in response to the dispensing of the unit product therefrom or, indicating the number of unit products left or dispensed. From this it can easily be concluded that Lim does not have the ability to represent the number of unit products left or remaining in graphical form on a display with numerical indicia. The examiner's reliance on a per se rule such as that derived from *In re Leshin*, 277 F.2d 197, 198-99, 125 USPQ 416, 417-18 (CCPA 1960), that selection of a known material based on suitability for the intended use is not normally considered to be patentable does not suffice to make up for the substantial deficiencies in the factual basis for the rejection. One can not assert that the use of a single LED, with an on or off position, would lead one skilled in the art to select an electronic display, with a plurality of displayed information as described in Applicant's invention.

Conclusion

All claim rejections being addressed in full, Applicant respectfully requests the withdrawal of the outstanding objections and rejections and the issuance of a Notice of Allowance. Should the Examiner have any questions regarding the foregoing, Applicant respectfully requests that the Examiner contact the undersigned, who can be reached at (919) 483-9995.

Respectfully submitted,

/Dwight S. Walker/
Dwight S. Walker
Agent for Applicant
Registration No. 63,170

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GlaxoSmithKline Inc.
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
(919) 483-9995
fax: (919) 315-4032
dwight.s.walker@GSK.com